

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/043,616

Published in the Official Gazette on March 5, 2002

Mark: NFLI

International Classes: 005, 030

NATIONAL FOOTBALL LEAGUE and
NFL PROPERTIES LLC,

Opposers,

-against-

NUTRITION FOR LIFE INTERNATIONAL,
INC.

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION



07-28-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:

Opposers National Football League and NFL Properties LLC believe they will be damaged by registration of the mark NFLI as shown in the above-identified application and hereby oppose the same pursuant to Section 13(a) of the Trademark Act of 1946, as amended (the "Lanham Act"), 15 U.S.C. § 1064(a).

As grounds for the opposition, Opposers allege that:

1. Opposer National Football League ("NFL") is an unincorporated association of thirty-two member clubs (the "Member Clubs"), each of which owns and operates a professional football team, providing entertainment services to the public in the form of competitive professional football games. NFL's principal place of business is 280 Park Avenue, New York, New York 10017.

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2. Opposer NFL Properties LLC ("NFLP"), a limited liability company organized and existing under the laws of Delaware with its principal place of business at 280 Park Avenue, New York, New York 10017, has been licensed exclusively by the NFL and each of the Member Clubs to use their respective trademarks for commercial purposes, to promote the NFL and its Member Clubs, and to protect their trademarks. Opposers and their authorized business partners, sponsors and licensees have used the marks of the NFL and its Member Clubs on or in connection with the sale of a wide variety of goods and services.

3. Since at least 1941, long before May 10, 2000 – the filing date of the intent to use application herein opposed, Opposers have used the mark NFL and various other similar marks (hereinafter, the "NFL Marks") in connection with their business of organizing, conducting and promoting the NFL and its Member Clubs. The NFL Marks are famous to the public because of the widespread use of said marks, the great popularity of NFL football and the extensive worldwide media coverage of the NFL.

4. For many years and long before May 10, 2000, the filing date of the intent to use application herein opposed, Opposers and their authorized business partners, sponsors and licensees have used the NFL Marks on or in connection with the sale of a wide variety of goods and services.

5. During their long, widespread and continuous use of the NFL Marks, Opposers and their authorized business partners, sponsors and licensees have expended considerable time, effort and money in the advertisement, promotion and sale of goods in conjunction with the NFL Marks. The NFL Marks embody great value and considerable goodwill exclusively belonging to Opposers. Such widespread use by the NFL, and authorized licensees of the NFL Marks, has contributed to the strong public association of the NFL Marks

with the NFL, and such use inures exclusively to the benefit of Opposers.

6. For many decades, the print and broadcast media and the general public have used the NFL Marks millions of times when referring to the NFL. Such widespread use by the media of the NFL Marks when referring to the NFL has contributed to the strong public association of the NFL Marks with the NFL, and such use by the media and the public inures exclusively to the benefit of Opposers.

7. Opposer NFL is the owner of numerous trademarks, including the following federal trademark registrations:

<u>Reg. No.</u>	<u>Mark/Design</u>	<u>International Class(es)</u>
886,055	NFL	42
1,056,303	NFL (Design)	42

These registrations listed have become incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. Section 1065.

8. By the application herein opposed, Applicant seeks to register the mark NFLI in International Classes 005 and 030. The application was filed on the basis of Applicant's intent to use the mark NFLI in connection with, inter alia, "food supplements and dietary food supplements and homeopathic pharmaceutical preparations" in International Class 005 and "dietary fiber form grains, oat bran wafers, flour, flour baking mixes, pasta, cakes and cookies" in International Class 030.

9. Opposers will be damaged by the registration sought by Applicant because such registration will support and assist Applicant in the confusing and misleading use of the mark sought to be registered, and will give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposers.

10. Registration should be refused pursuant to Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a), on the grounds that Applicant's use of the mark NFLI falsely suggests a connection between Applicant and Opposers named herein, to the damage of Opposers.

11. Registration should be refused pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), on the grounds that Applicant's proposed NFLI mark so resembles the use of Opposers' NFL Marks in the United States, as to be likely, when used on or in connection with Applicant's goods, to cause confusion, or to cause mistake, or to deceive, with consequent injury to Opposers and to the public.

12. Registration should be refused pursuant to Section 13(a) of the Lanham Act, 15 U.S.C. § 1063(a), on the grounds that Opposers will be damaged by the registration sought by Applicant because Applicant's use of the mark NFLI will dilute the distinctive and famous quality of Opposers' NFL Marks.

WHEREFORE, Opposers believe they will be damaged by the registration by Applicant of the mark NFLI for the goods identified in Application Serial Number 76/043,616 and respectfully request that the opposition be sustained and registration of said mark be denied.

This Notice of Opposition is filed in duplicate as required by 37 C.F.R. § 2.104(a). Pursuant to 37 C.F.R. §2.6(a)(17), enclosed is a check for the requisite amount of one thousand, two hundred dollars (\$1,200) to cover the statutory fee for filing a notice of opposition by two Opposers in two International Classes.

08/14/2003 TAP

All communication should be addressed to Opposers' outside counsel, Claudia T. Bogdanos, Esq., White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036.

Dated: New York, New York
July 28, 2003

Respectfully submitted,

WHITE & CASE LLP

By: Claudia T. Bogdanos
Robert L. Raskopf
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Attorneys for Opposers National Football
League and NFL Properties LLC.

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

"Express Mail" mailing label number:

I hereby certify that this document and instructions for payment of fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service in an envelope addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on this 28th day of July 2003.

Signature: Claudia T. Bogdanos
Claudia T. Bogdanos

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July 28, 2003

VIA EXPRESS MAIL NO. EL608306433US

07-28-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Box TTAB Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Re: Notice of Opposition by National Football League and NFL Properties LLC to Application
of Nutrition For Life International, Inc; Serial No. 76/043,616; Mark NFLI

To the Assistant Commissioner:

I enclose the original and one copy of the Notice of Opposition by National Football League and NFL Properties LLC to the above-referenced application. I also enclose a check for \$1,200.00 to cover the filing fee for this Notice of Opposition.

Please stamp and return the enclosed postcard to acknowledge receipt of the Notice of Opposition and the check. Please also conduct all correspondence with regard to the above-referenced application with the undersigned.

Sincerely,

Claudia T. Bogdanos

Claudia T. Bogdanos

CB:wl

Enclosure

cc: David M. Proper, Esq